

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

BARBARA SMITH,)
Plaintiff,)
v.) CIVIL ACTION FILE
DIAMOND DEVELOPMENT &) 1:13-02017-TCB-JFK
INVESTMENTS INC. d/b/a)
DIAMOND DAVE'S STEAKHOUSE,)
Defendant.) JURY TRIAL DEMANDED

AFFIDAVIT OF ELIZABETH SHEPHERD

Before me this day personally appeared Elizabeth Shepherd, who being duly sworn, deposes and says:

- 1) I am the owner of Triple Threat Legal Service and have been an appointed process server since 2001.
- 2) I was engaged by attorney Paul Sharman on October 22, 2013 to serve this lawsuit on the Defendant, DIAMOND DELEOPMENT & INVESTMENTS INC. d/b/a DIAMOND DAVE'S STEAKHOUSE through its registered agent, David Ulmer.
- 3) I visited Diamond Dave's restaurant in an attempt to serve Mr. Ulmer on October 22, 2013 at 6:30 p.m., October 23, 2013 at 7:15 p.m., and October 25, 2013 at 4:45 p.m.

- 4) I also visited Kryptonite restaurant (also owned by Defendant) in an attempt to serve Mr. Ulmer on October 23, 2013 at 4:45 p.m.
- 5) At no time did I see Mr. Ulmer or his vehicle (a black Toyota Tundra truck with license plate number DBU 111) at either restaurant.
- 6) I served Defendant by personally serving Mr. Ulmer with a Summons and Complaint for Damages, at Mr. Ulmer's home address of 3271 Stoney Acres Drive, Kennesaw, Georgia 30152 on October 29, 2013 at 1:39 p.m.
- 7) At approximately 1:30 p.m. on October 29, 2013, I arrived at Mr. Ulmer's residence and I saw an older white male standing in the driveway speaking to man standing in the doorframe of the front door, holding the glass door open. I also saw a portable workbench/saw horse further down the driveway.
- 8) I immediately recognized David Ulmer as the man standing in the doorframe from pictures and YouTube videos I had seen on the Diamond Dave's website, and I made direct eye contact with him.
- 9) I continued down the street to the cul-de-sac and turned around. As I re-approached Mr. Ulmer's house, I saw the man fitting Mr. Ulmer's description leaning into the driver's side of a black Toyota Tundra, with the license plate number DBU 111.

- 10) I pulled into the driveway next door, and as I exited my vehicle, the man fitting Mr. Ulmer's description and I re-established eye contact.
- 11) He hurried up the front porch stairs, turned around and looked at me through the glass door as I was approaching the door. He then closed the front wooden door as I was approximately 6 feet away from it.
- 12) I called out "excuse me, excuse me, Mr. Ulmer." There was a big open window to my left of the front door and he was standing in it looking at me.
- 13) I stated "Mr. Ulmer, I have service for you." He replied "I'm not taking it."
- 14) At this point I saw what appeared to be a white female walk up beside him, to his right.
- 15) I stated "I am a process server, and I have Federal court papers to serve to you."
- 16) Mr. Ulmer stated "Nope, not taking it." I replied "either you can come out and accept the papers or I can leave them on your porch, either way, you have been served."
- 17) He replied "that's not me!"
- 18) I put the service copies on the front porch and stated "Mr. Ulmer, you have been served."

- 19) As I was leaving I once again saw the older gentleman, this time further down the driveway at the portable workbench/sawhorse.
- 20) Affiant further sayeth not.

Eliz Shep
Elizabeth Shepherd, Triple Threat Legal Service

Sworn and Subscribed Before Me This

4th Day of December, 20 13

Notary Public: Yvette Colebourn

